consideration to support the agreement. *Driscoll* v. *Sullivan,* (Ind., 1917), 115 N. E. 331; *Demeules* v. *Jewel Tea Co.,* 103 Minn. 150; *Frank et al.* v. *Vogt,* 166 N. Y. Supp. 175; *Weidner* v. *Standard Life & Accident Insurance Co.,* 130 Wis. 10; *Whittaker Chain Tread Co.* v. *Standard Auto Supply Co.,* 216 Mass. 204. Other courts, treating the whole claim as unliquidated, have shown a tendency to sustain agreements in discharge of liability when any part of the claim is in dispute, and although payment is only of the smaller amount which was conceded by the debtor to be due. *Tanner* v. *Merrill,* 108 Mich. 58; *Neely* v. *Thompson,* 68 Kan. 193; *Treat* v. *Price,* 47 Neb. 875; *C. M. & St. P. Ry Co.* v. *Clark,* 178 U. S. 353. These later courts, considering the rule that payment of a less amount than is actually due will not discharge the whole debt as a rule technical in its conception and harsh in its operation, have evidently taken this opportunity to limit its application.

CONSTITUTIONAL LAW—DUE PROCESS OF LAW—CARRIAGE OF STATE OFFICIALS BY RAILROADS.—A state reserved the right to amend alter or repeal the charter of a railroad company. *Held,*—It canot by virtue of such right impose on the railroad company the burden of carrying free of charge state officials, for that works a deprivation without due proces of law of the company's right to charge such officials fare. *Napier* v. *Delware, L. & W. R. Co.,* (N. Y. 1917), 102 Atl 444.

The decision proceded upon an assumption that the railroad company had a right to charge state officials even though the state should so amend the company's charter as to give it no such authority. By this assumption the question of the extent of the state's reserved power of amendment is eliminated. The case therefore assumes that the privilege of charging all persons was a vested right and its taking away not an act within the police power. In *Dunbar* v. *Boston & P. R. Corp.,* 181., Mass. 383, it was held that where the damage done is small and the public advantage great an interference with a vested right would be sustained. This is contrary, however, to the generally accepted view. That such a taking was not an exercise of the reserved power of the legislature but constituted a taking of property without due process of law was held in *Delaware, Lackawanna and Western R. R. Co.* v. *Board of Public Utilities Commisioners,* 85 N. J. L. 28. The same conclusion was reached in *Pa. R. R. Co.* v. *Herrmann,* 89 N. J. L. 582. The charter however in the last case did not reserve the right to alter, amend or repeal the same. The legislative act requiring a railroad to run four trains per day was held confiscatory and unconstitutional as depriving the company of property without due proces of law. *Washington, Potomac & Chesapeake Ry. Co.* v. *Magruder,* 198 Fed. 218. Laws requiring railroad companies to construct and maintain spur tracks to industrial plants work a deprivation of property without due proces of law. *McInnis* v. *New Orleans & N. E.R. Co.,* 109 Miss. 482. A state statute requiring in interstate as well as intrastate commerce separate Pullman accommodations for the white and colored races though entailing great expense in view of the almost negligible number of colored Pullman passenger is not a taking of property without due process of

law. *Southern Ry. Co.* v. *Norton,* 112 Miss. 302. An order of a state railroad commission requiring truckage connection between competing railroads for interchange of business is not due process of law, if the order is arbitrary or unreasonable and not justified by public necessity. *State of Washington* v. *Fairchild,* 224 U. S. 510..

CONSTITUTIONAL LAW—TAXATION OF FOREIGN CORPORATIONS—PRIVILEGE OF DOING DOMESTIC BUSINESS.—Under a statute requiring every foreign corporation doing business within the state to pay an annual excise tax of one one-hundredth of one per cent of the par value of its authorized capital stock, plaintiff had paid $5,500. In an action to recover the money so paid, *held,* the statute under which the tax was levied was unconstitutional, as burdening interstate commerce, and laid upon property of the corporation beyond the state, hence plaintiff should recover. *International Paper Co.* v. *Massachusetts,* U. S. Sup. Ct. Adv. Ops., March 4, 1918.

In this decision the Supreme Court reverses the supreme court of Massachusetts, 228 Mass. 101, 117 N. E. 246. The decision in the latter court is noted in 16 MICH. L. REV. 127. *Looney* v. *Crane Co.,* 245 U. S. 178, 38 Sup. Ct. 85, decided Dec. 10, 1917, was followed. The *Looney Case* was noted in 16 MICH. L. REV. 264. The controlling fact in the principal case was the lack of any maximum limit. In *Kansas City, etc. Ry.* v. *Kansas,* 240 U. S. 227, 233, Mr. Justice Hughes had said: "We have recently had occasion (*Baltic Mining Co.* v. *Massachusetts, supra*), to emphasize the necessary caution that every case involving the validity of a tax must be decided upon its own facts; and if the tax purports to be laid upon a subject within the taxing power of the State, it is not to be condemned by the application of any artificial rule but only where the conclusion is required that its necessary operation and effect is to make it a prohibited exaction." Without any consideration, however, as to whether the amount of the tax was such as to constitute a burden upon plaintiff's interstate business the court in the principal case held the statute unconstitutional, on the ground that there was no maximum fixed. Those who have been inclined to a feeling of dizziness in following the rulings of the Supreme Court on this subject can gain some comfort from Mr. Justice Vandevanter's opinion when he says: "In disposing of these questions there has been at times some diversity of opinion among the members of the court and some of the decisions have not been in full accord with others."

CONSTITUTIONAL LAW—TRADING STAMP STATUTES.—The complainant companies sought to restrain the defendants from enforcing the provisions of the statute prohibiting the exercise of the trading stamp and coupon business in that state, on the ground that the statute was unconstitutional. *Held,* constitutional. *Sperry & Hutchinson Co.* v. *Wiegle,* (Wis. 1918), 166 N. W. 54.

The case settles the law of Wisconsin in accord with the present trend of the authorities. The authorities are collected in 16 MICH. L. REV. 263.